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10/658,405	09/10/2003	Thami Smires	A-8196. RNFMP/bh	2238

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EXAMINER

MEINECKE DIAZ, SUSANNA M

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3692

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/658,405	Applicant(s) SMIRES ET AL.	
	Examiner Susanna M. Diaz	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This final Office action is responsive to Applicant's reply filed March 25, 2009.

Claim 7 has been amended, thereby overcoming the previously pending rejection under 35 U.S.C. 112, 2nd paragraph.

Claims 1-10 are pending.

Response to Arguments

2. Applicant's arguments filed March 25, 2009 have been fully considered but they are not persuasive.

Applicant argues that Atomic Software Inc.'s ecomPort payment gateway only discloses one gateway and not multiple ones, as recited in the claims (page 5 of Applicant's response). The Examiner submits that a gateway is merely a portal or connection to a particular application, network, etc. Applicant's own specification states, "The gateways serve as entry points from different communion networks and perform protocol conversion from the native network protocols to the proprietary protocol used at both transport and data layers as necessary." (Page 3, ¶ 6 of the specification) While this is not construed as a special, limiting definition, it does convey the idea that gateways connect different applications, networks, etc. to one another. "ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference": ¶ 4 explains that the "Atomic's ecomPort Wireless Payment Gateway was used to provide connectivity to ETA's merchant processor. The ecomPort gateway service routes transactions from the point of sale to the merchant's credit, debit and check processors." The fact that

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transactions are divided respectively among credit, debit and check processors and processed accordingly means that there are multiple gateways. The merchant's point of sale terminal is connected to either a credit processor, a debit processor, or a check processor, depending on which gateway is required, thereby addressing the claim limitation in question.

Also, Examiner notes that, as per MPEP § 2144.03(C), the statements of Official Notice made in the art rejection have been established as admitted prior art since Applicant has not traversed the Examiner's assertions of Official Notice. More specifically, the following statements of Official Notice are now formally established on record as admitted prior art:

Official Notice is taken that it was old and well-known in the financial transaction art at the time of Applicant's invention to void a transaction when entered transaction data is incorrect.

Official Notice is taken that it was old and well-known in the financial transaction art at the time of Applicant's invention to access a decision table to determine which payment server to use.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Atomic Software Inc.'s ecomPort payment gateway, as disclosed in the following references:

(a) "ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference"

(b) "Wireless Payment Gateway Service from Atomic Software"

(c) "Wireless Credit Card Processing for Under \$500.00"

(d) "Electronic Transaction Association to Use MIST Freedom II Terminals at Annual Meeting and Exposition in San Diego"

(e) "Credit-Card Authorization On the Go"

Atomic Software Inc.'s ecomPort payment gateway discloses a system for controlling the processing of credit card and debit card transactions, between various types of point-of-sale terminal devices initiating the transactions transmitted ultimately to a plurality of credit card processors through a plurality of gateway networks, comprising:

[Claim 1] a credit card server in communication with the plurality of gateways and the credit card processors, said credit card server receiving a credit card or debit card transaction request from the point-of-sale terminal devices through the plurality of gateway networks, said credit card server processing the transaction and sending the transaction to any of the credit processors, said credit card server communicating with the terminal devices indicating the disposition of each of the transactions ("ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference": ¶ 4);

a database connected to said credit card server for maintaining and reading information relating to the transactions and the point-of-sale terminal devices (“ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference”: ¶ 4 – The ability to review transaction detail and batch reports as well as see up to one year of transaction history online implies the existence of a database to store the recited information); and

a transaction manager connected to said credit card server for managing a website allowing the merchant associated with each of the point-of-sale terminal devices to view their respective transactions as well as voiding the transactions (“ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference”: ¶ 4; “Wireless Payment Gateway Service from Atomic Software”: ¶¶ 1-4);

[Claim 2] wherein a display is associated with the point-of-sale terminal devices, allowing the merchant to view their respective transactions (“ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference”: ¶ 4; “Wireless Payment Gateway Service from Atomic Software”: ¶¶ 1-4);

[Claim 3] wherein the respective transactions are viewed in real time (“ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference”: ¶ 4; “Wireless Payment Gateway Service from Atomic Software”: ¶¶ 1-4);

[Claim 4] wherein at least one of the point-of-sale terminal devices encrypt information transmitted over said gateway networks (“Wireless Payment Gateway Service from Atomic Software”: ¶¶ 1-4; “Wireless Credit Card Processing for Under

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\$500.00": ¶ 7 -- Communications conducted throughout the process are secure, which implies that information is encrypted and decrypted among communicating parties);

[Claim 5] wherein said encrypted information is decrypted by said credit card server ("Wireless Payment Gateway Service from Atomic Software": ¶¶ 1-4; "Wireless Credit Card Processing for Under \$500.00": ¶ 7 -- Communications conducted throughout the process are secure, which implies that information is encrypted and decrypted among communicating parties);

[Claim 6] wherein information included in the transaction is authenticated by said credit card server ("Wireless Payment Gateway Service from Atomic Software": ¶¶ 1-4; "Wireless Credit Card Processing for Under \$500.00": ¶ 7 -- Communications conducted throughout the process are secure, which implies that information is encrypted and decrypted among communicating parties);

[Claim 8] wherein said credit card server would encrypt at least a portion of the information included in the transactions prior to entering this information in said database ("Wireless Payment Gateway Service from Atomic Software": ¶¶ 1-4; "Wireless Credit Card Processing for Under \$500.00": ¶ 7 -- Communications conducted throughout the process are secure, which implies that information is encrypted and decrypted among communicating parties, including prior to settlement of a transaction as part of the payment verification process. The database includes data regarding actual settlement of transactions, thereby implying that stored data is at some point encrypted prior to entering at least a portion of the information included in the transactions prior to entering this information in the database);

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[Claim 9] further including a plurality of credit card processors in connection with said credit card server ("ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference": ¶ 4; "Wireless Payment Gateway Service from Atomic Software": ¶¶ 1-4; "Wireless Credit Card Processing for Under \$500.00": ¶¶ 5, 6).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atomic Software Inc.'s ecomPort payment gateway, as disclosed in the following references:

(a) "ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference"

(b) "Wireless Payment Gateway Service from Atomic Software"

(c) "Wireless Credit Card Processing for Under \$500.00"

(d) "Electronic Transaction Association to Use MIST Freedom II Terminals at Annual Meeting and Exposition in San Diego"

(e) "Credit-Card Authorization On the Go",

as applied to claims 1-6, 8, and 9 above, in view of Official Notice [now admitted prior art].

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[Claim 7] Atomic Software Inc.'s ecomPort payment gateway does not explicitly disclose that said credit card server denies a transaction if said information included in the transaction is incorrect, based upon data provided in said database; however, Atomic Software Inc.'s ecomPort payment gateway does allow merchants to interactively adjust transactions, including voids and returns ("ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference": ¶ 4). Official Notice is taken that it was old and well-known in the financial transaction art at the time of Applicant's invention to void a transaction when entered transaction data is incorrect [now admitted prior art]. The Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Atomic Software Inc.'s ecomPort payment gateway such that said credit card server denies a transaction if said information included in the transaction is incorrect, based upon data provided in said database, in order to enable a merchant to void a transaction for which transaction data (including a date) was erroneously entered. Such a practice promotes good customer service and facilitates accurate payments.

[Claim 10] Atomic Software Inc.'s ecomPort payment gateway does not explicitly disclose that said credit card server is provided with a decision table used to decide which of said plurality of credit card processors would receive a particular transaction. However, Atomic Software Inc.'s ecomPort payment gateway does allow merchants to select any of the major credit card processors to process a transaction ("Wireless Credit Card Processing for Under \$500.00": ¶ 6) and "the ecomPort gateway service routes

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transactions from the point of sale to the merchant's credit, debit and check processors" ("ETA Selects MIST to Provide Wireless Terminals at ETA Mid-Year Conference": ¶ 4). Furthermore, Official Notice is taken that it was old and well-known in the financial transaction art at the time of Applicant's invention to access a decision table to determine which payment server to use [now admitted prior art]. Since Atomic Software Inc.'s ecomPort payment gateway handles various credit card processors as well as debit and check transactions, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Atomic Software Inc.'s ecomPort payment gateway such that said credit card server is provided with a decision table used to decide which of said plurality of credit card processors would receive a particular transaction in order to facilitate quick and accurate routing of each transaction to the proper processor.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna M. Diaz/
Primary Examiner, Art Unit 3692